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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/730,131

12/09/2003

Darko Pervan

1033462-000037

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21839 7590 01/13/2009  
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EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

NOTIFICATION DATE

DELIVERY MODE

01/13/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/730,131 | <b>Applicant(s)</b><br>PERVAN, DARKO |  |
|                              | <b>Examiner</b><br>BASIL KATCHEVES   | <b>Art Unit</b><br>3635              |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5,7-20 and 25-40 is/are pending in the application.
- 4a) Of the above claim(s) 1-3,5,7-20 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25,27-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

Newly amended claims 1, 15 and 26 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The applicant elected, in the election of 11/3/04, figures 5A and 5B. These figures do not show a locking edge which locks only in the horizontal direction as the applicant's amendment claims. These figures show a locking system which locks in both horizontal and vertical.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1, 15 and 26 are withdrawn from consideration as being directed to a non-elected invention. Claims 2, 3, 5, 7-14, 15-20 and 26 depend from these claims and are also withdrawn. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 25, 27-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,763,643 to Martensson in view of U.S. Patent No. 2,497,837 to Nelson.**

Regarding claims 25 and 27, Martensson discloses a laminated (fig. 2c: 3) rectangular floorboard (fig. 6) with integrated connectors (fig. 8: 2) with a vertical plane between boards when joined with other boards (fig. 8: vertical edge of 3). Martensson also is capable of being locked together by angling the boards together from a generally vertical position. Martensson discloses the basic claim structure of the instant application but does not disclose specific long and short edge dimensions. Nelson discloses a floorboard (title) made from a width less than 10cm (column 2, lines 8-9) and a length less than 80 cm (column 1, lines 49-51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Martensson by making a board of these dimensions as a design choice in order to fit into particular areas where available space is an important consideration. Martensson also discloses the boards as having opposing long

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edges, opposing short edges (fig. 6) and a top layer of a laminate (fig. 8: 1). Also, Martensson discloses a floor made from locked rectangular floorboards (fig. 6) capable of being locked by inward angling (fig. 8: 21, 22) and by laterally sliding panels along joining a mirrored connector 10, the boards, when connected together, create a vertical plane between upper edges (fig. 8: vertical edge of 3 & fig. 2b: 2). Martensson also discloses the boards as connected long side to short side and short side to short side (fig. 6: see T shaped intersection of corners).

Regarding claim 28, Martensson discloses the boards as capable of being joined by inward angling (fig. 8: 21, 22).

Regarding claim 29, claim 29 is rejected for reasons cited in the rejection of claim 27. In addition, Martensson discloses the boards as capable of being joined long side to long side, short side to short side, and long side to short side (fig. 6 and fig. 2b: 4 & 10).

Regarding claim 30, Martensson discloses the boards as being capable of inward locking (fig. 8: see point 22 and groove 21).

Regarding claim 31, Martensson discloses the use of a thermosetting resins for board surface layers (column 2, lines 10-11).

Regarding claim 32, Martensson discloses a flooring system having a plurality of rectangular boards (fig. 6), with integrated connectors that when joined together, their upper edges are on a vertical plane joined together (fig. 2c: 2), the floorboards are capable of connecting in a horizontal direction and a vertical direction with mirror board edge images (fig 2c). However, Martensson does not disclose specific dimensions of

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the sides. Nelson discloses a floorboard (title) made from a width less than 10cm (column 2, lines 8-9) and a length less than 80 cm (column 1, lines 49-51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Martensson by making a board of these dimensions as a design choice in order to fit into particular areas where available space is an important consideration.

Regarding claims 33-38, Martensson discloses the connector as being a separate part, integrated when installed, (fig. 8: 10) which projects beyond the edge and connects with the core portion (fig. 8: 5) of the board. The connector extending from all sides to create a flooring (fig. 6).

Regarding claims 39, 40, Martensson discloses an embodiment (fig. 2c) having, on all sides, two tongues (2, 6) and a groove (4"), the boards being mirror images and aligned along a common line when connected by connector 10', the edges extending longitudinally in parallel directions and in perpendicular directions, those long versus short sides.

### **Response to Arguments**

Applicant's arguments filed 10/21/08 have been fully considered but they are not persuasive. The applicant argues the Nelson reference does not teach the claimed dimensions. However, the applicant should note, as stated in the rejection above, column 2, line 8 of Nelson discloses a 3 inch width (7.6 cm) which is less than 10cm, as claimed. Also, column 1, line 50 teaches the length as being greatly exceeding the width. Greatly exceeding may be construed, at most probably, as two or three

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times the width. This would be approximately 24 cm which is less than the claimed 80cm, meeting the limitations. This is an obvious rejection and the combination is properly teaching these dimensions. The applicant also argues that Nelson teaches away from a floorboard that is shorter than standard length. However, the applicant should note that just because one length is disclosed as longer than another, does not mean the board itself is larger than standard. Also, there is no such thing as a standard board with which to compare to. The applicant argues the steps of assembling the floorboards. The applicant should note that the structural limitations of the floorboards are met by the prior art and the properties of angling, horizontal and vertical movement can be met by the prior art since edges are curved and center connectors are flexible in order to allow for angular movement. This is an obvious rejection and angling is an obvious means for assembling. Also, simply moving boards in parallel is not novel and is commonly used where a horizontal connection is possible. Regarding the mirror inversion, this is shown in fig. 2 of Martensson and may be translated in 2a as mirror opposite, or 2b & c as mirrored images, noting that a mirror is an inverted image. The applicant also argues which sides are joinable, but as can be seen in figs. 5 & 6 of Martensson, all sides can be joinable in an obvious order, and not any one particular order.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is

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(571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635